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FISCAL IMPACT STATEMENT

LS 7116

BILL NUMBER: HB 1380

NOTE PREPARED: Feb 28, 2014

BILL AMENDED: Feb 27, 2014

SUBJECT: Various Tax and Administrative Issues.

FIRST AUTHOR: Rep. Turner

FIRST SPONSOR: Sen. Hershman

BILL STATUS: CR Adopted - 2nd House

FUNDS AFFECTED: X GENERAL
X DEDICATED
FEDERAL

IMPACT: State & Local

Summary of Legislation: (Amended) The bill contains the following provisions:

Motorsports Investment District: The bill requires the Indiana Motorsports Commission (IMC) to establish a Motorsports Facility Fund if a Motorsports Investment District is established. It provides that during the term of the written agreement the commission shall each state fiscal year deposit in the Motorsports Facility Fund at least \$2 M solely from payments by the motorsports facility owners. The bill provides that money paid into the Motorsports Facility Fund is to be credited to the motorsports facility owners and that the money in the fund reverts to the state General Fund on June 30 of each year. The bill increases the appropriation amount to be requested by the IMC from \$5 M to \$7 M for deposit in the Motorsports Investment District Fund. It also requires the Department of State Revenue to annually notify entities of the incremental tax amounts and the reversion amount from the Motorsports Facility Fund.

Property Tax: It provides, for purposes of the property tax circuit breaker credit, that a commercial hotel, motel, inn, tourist camp, or tourist cabin is not residential property.

Aviation Facilities Definition: The bill specifies that aviation manufacturing, aviation assembly, and aviation research and development facilities are aviation-related property or facilities for purposes of the airport law.

Rainy Day Funds: It requires the State Board of Finance to make a loan to a school corporation from the Counter-Cyclical Revenue and Economic Stabilization Fund, if the school corporation's petition for a loan from the fund was denied in October 2013 and a general fund referendum was not passed in 2014 by the voters in the school corporation.

Tax Credit Modification: The bill allows the Industrial Recovery Tax Credit to be allocated among the members of a pass through entity.

Internal Revenue Code: It updates references to the Internal Revenue Code.

Local Income Tax Credit: The bill provides a credit against County Economic Development Income Taxes (CEDIT) for taxes paid to local governments outside Indiana.

Filing Extensions: It provides that all Indiana adjusted gross income tax return and financial institutions tax return due date extensions are treated the same as an extension granted because of a federal income tax due date extension.

Vehicle Registration Fees: It specifies the amount that shall be collected by the Department of State Revenue for registrations of vehicles in a commercial fleet, if the department adopts rules to implement staggered registration.

Vehicle Permits: The bill allows the Department of State Revenue to deny or suspend certain oversize and overweight vehicle permits if the applicant or permit holder is delinquent in paying escort fees to the Indiana State Police Department.

Lake County Review: The bill requires county council review and approval of the Lake County Convention and Visitor Bureau annual budget.

Washington Township Levy Increase: It increases the maximum property tax levy for Washington Township in Hamilton County.

Green Township: It authorizes Green Township in Madison County to borrow a sufficient amount of money to pay the township's obligations under a contract for fire or emergency services in 2014.

Innkeeper's Tax: It extends the current Vanderburgh County innkeeper's tax revenue distributions through December 31, 2019.

Effective Date: (Amended) Upon passage; May 15, 2013 (retroactive); January 1, 2014 (retroactive); July 1, 2014; January 1, 2015.

Explanation of State Expenditures: *Department of State Revenue (DOR):* The bill's requirements are within the DOR's routine administrative functions and should be able to be implemented with no additional appropriations, assuming near customary agency staffing and resource levels.

(Revised) *Motorsports Investment District:* The bill increases the annual appropriation to the Motorsports Investment District Fund from \$5 M to \$7 M each fiscal year until either 22 years after the date the first appropriation is deposited or the date the bonds issued for improvements are no longer outstanding. The increased appropriation replaces the \$2 M the owners of the Indianapolis Motor Speedway would have deposited into this fund. [The owners of the Indianapolis Motor Speedway will instead deposit their annual \$2 M contribution into the Motorsports Facility Fund.]

The money in the Motorsports Investment District Fund is used by the IMC to pay the rent due under leases of structures or other capital improvements located within the Motorsports Investment District and to pay

all expenses incurred by the IMC or the Indiana Finance Authority in connection with their duties relating to the Motorsports Investment District.

Explanation of State Revenues: The following provisions may have an impact on state tax revenue. The provisions are categorized based on whether the provisions are: (1) likely to increase state revenue, (2) likely to have no fiscal impact, or (3) likely to decrease state revenue.

Likely to Increase State Revenue -

(Revised) Motorsports Investment District: The bill establishes the Motorsports Facility Fund. The owners of the Indianapolis Motor Speedway are required to deposit their \$2 M per fiscal year obligation into the Motorsports Facility Fund instead of the Motorsports Investment District Fund. The money within the Motorsports Facility Fund will revert to the state General Fund on June 30 each year and be credited towards IMS's obligations.

Vehicle Permits: The bill allows the DOR to deny or suspend certain oversize and overweight vehicle permits if the applicant or permit holder is delinquent paying superload escort fees to the Indiana State Police Department. This provision will likely assist in the collection of delinquent escort fees and increase voluntary compliance. The actual revenue increase is indeterminable but likely to be small.

The superload escort fee equals the wages of each officer assigned to the detail at a rate of \$34 per hour and \$0.44 per mile for the use of each assigned officer's commission. The escort fee is first deposited in a dedicated fund then later transferred to the state General Fund.

Likely to Have No Fiscal Impact -

Filing Extensions: The bill provides that all Indiana adjusted gross income tax and financial institutions tax return due date extensions are treated the same as an extension granted because of a federal income tax due date extension. In addition, the bill specifies that the extension payment of 90% of tax due should be made on the return's original due date and not when the taxpayer requests an extension. This applies to extensions for all tax returns.

Internal Revenue Code: The bill updates the reference to the Internal Revenue Code (IRC) as amended and in effect on January 1, 2014. The current reference to the IRC pertains to all IRC provisions amended and in effect on January 1, 2013. There were no significant updates to the IRC enacted by Congress during 2013. However, some federal provisions were allowed to expire on December 31, 2013, that Indiana requires to be added back to federal adjusted gross income. Those add-backs will no longer be necessary and should not have a significant fiscal impact. (It is possible that these federal provisions could be retroactively reinstated during 2014.) The expiring provisions with an Indiana add-back are:

- Discharge of indebtedness on a principal residence.
- Increase in section 179 expensing to \$500,000/\$2,000,000 and expansion of the definition of section 179 property.
- Special expensing rules for certain film and television productions.

(Revised) Vehicle Registrations: The bill allows the DOR to continue their current administrative practices regarding the registration of vehicles in a commercial fleet.

Likely to Decrease State Revenue -

Tax Credit Modification: Currently, if a pass through entity is awarded an Industrial Recovery Tax Credit (IRTC) and the pass through entity does not have a state income tax liability, there is no mechanism to allow a shareholder, partner, or a member of the pass through entity to claim the credit. This bill provides the authorization for a shareholder, partner, or member of a pass through entity to claim the IRTC. The modification goes into effect in tax year 2014. The fiscal impact will likely begin in FY 2015, but could begin in FY 2014 if taxpayers adjust their quarterly estimated payments.

The bill expands the number of potential credit recipients and increases the likelihood that taxpayers will claim the full amount of IRTC authorized by the Indiana Economic Development Corporation (IEDC). The IEDC approved a total of \$3.5 M in ITRC in 2013. Those investments represent about 0.7% of the average annual fixed structural investments by Indiana manufacturing and warehousing businesses. If the change would allow the ITRC to be used for 1% of the estimated average annual fixed structural investments by manufacturing and warehousing businesses in Indiana, it could increase the IRTC by an estimated additional \$1.6 M a year beginning in FY 2015. The actual revenue loss from the modification of this credit will largely depend on the IEDC's approval process, and each recipient's remaining state income tax liability after the application of other exemptions, deductions, and credits.

Explanation of Local Expenditures: (Revised) *Lake County Review:* The bill requires county council review and approval of the Lake County Convention and Visitor Bureau annual budget. The bill also prohibits the Bureau from making an expenditure without an appropriation by the county council.

Explanation of Local Revenues: *Aviation Facilities Definition:* The bill expands the definition of aviation related properties or facilities to include aviation manufacturing, assembly, research and development facilities. Currently, leased property used as aviation related property or facilities is exempt from property tax. This change will likely result in a tax shift from owners of aviation manufacturing, research and development facilities to all taxpayers. There could also be an increase in circuit breaker losses for local taxing units and school corporations. The extent of the potential tax shifts and circuit breaker losses is indeterminable.

Innkeeper's Tax: The bill will not affect net revenue to Vanderburgh County, but it delays a change in the distribution of Innkeeper's Tax revenue from CY 2015 to CY 2020. Vanderburgh County levies the Innkeeper's Tax at a rate of 8% of lodging income. The distribution of the 8% tax rate under current statute for CY 2014, CY 2015, and CY 2016 and under the bill for CY 2015 and CY 2016 is specified in the table below.

Fund	Current Tax Rate Distribution			Proposed Tax Rate Distribution	
	2014	2015	2016	2015	2016
Tourism Cap. Imp. Fund	3.5%	4.5%	4.5%	3.5%	3.5%
C&V Promotion Fund	2.5%	2.5%	2.5%	2.5%	2.5%
Conv. Ctr. Operating Fund	2%	1%	1%	2%	2%
Total	8%	8%	8%	8%	8%

The revenue distributions under current statute and as proposed under the bill for CY 2015 and CY 2016

are summarized in the table below.

Fund	Current Distribution		Proposed Distribution		Difference	
	2015	2016	2015	2016	2015	2016
Tourism Cap. Imp. Fund	\$2,249,389	\$2,311,151	\$1,749,525	\$1,797,562	(\$499,864)	(\$513,890)
C&V Promotion Fund	\$1,249,661	\$1,283,973	\$1,249,661	\$1,283,973	\$0	\$0
Conv. Ctr. Operating Fund	\$499,864	\$513,589	\$999,728	\$1,027,178	\$499,864	\$513,589
Total	\$3,998,914	\$4,108,712	\$3,998,914	\$4,108,712		

Revenue deposited in the Tourism Capital Improvement Fund may be used to make capital improvements in the county that promote conventions, tourism, or recreation. Revenue deposited in the Convention Center Operating Fund must be expended for the operating expenses of the convention center. After the rate distribution change occurs, the unused balance will be transferred to the Tourism Capital Improvement Fund on January 1 of each year.

Local Income Tax Credit: The bill provides a credit against CEDIT for taxes paid to local governments outside Indiana. There is currently a local tax credit for taxes paid to local governments outside Indiana, but it only applies to County Adjusted Gross Income Tax (CAGIT) and County Option Income Tax (COIT). The total credits for local taxes paid outside Indiana between 2007 and 2011 ranged from \$17.5 M to \$21.5 M. Expanding the credit to include CEDIT may result in an additional \$4 M to \$5 M decrease in statewide CEDIT revenue.

Property Tax: The bill explicitly states that for the purposes of the property tax circuit breaker credit a commercial hotel, motel, inn, tourist camp, or tourist cabin is not residential property. This is a clarification to the definition of residential property and should have no fiscal impact.

(Revised) *Rainy Day Funds:* This provision could increase the number of state Rainy Day Fund (RDF) loans to distressed school corporations. Under current law, a distressed school corporation may request a loan from the RDF. The DUAB makes a recommendation to the State Board of Finance regarding approval of the loan.

Under this provision, the DUAB would be required to approve a loan for a distressed school corporation if the school corporation's petition for a loan from the RDF was denied in October 2013. One school corporation, Mt. Vernon Community Schools, would qualify for a loan under this provision. However, the school corporation would not be eligible for the RDF loan if, in 2014, the voters approve a referendum tax levy for operating.

Also under this provision, the State Board of Finance would be required to make any loan from the RDF that is approved by the DUAB.

(Revised) *Washington Township Levy Increase:* This provision would increase the township's maximum levy by up to \$85,000 in 2014. The new maximum levy would be the base for maximum levies going forward. If the county imposes a levy that includes the increase, then the county tax rate would increase. Some taxing units within the county could experience increased circuit breaker losses due to the increased tax rate.

(Revised) *Green Township:* Under this provision, Green Township would be permitted to take an emergency

fire loan in 2014. The 2015 repayment of the loan would require an increased property tax levy. The additional levy would cause an increase in the township's property tax rate for one year, 2015. Some taxing units that intersect with Green Township could experience increased circuit breaker losses due to the increased tax rate.

State Agencies Affected: Department of State Revenue; Department of Local Government Finance; Indiana State Police; Indiana Finance Authority.

Local Agencies Affected: County auditors; Local assessors; Local civil taxing units and school corporations; Washington Township in Hamilton County; Green Township in Madison County.

Information Sources: LSA income tax database; Joint Committee on Taxation, *List of Expiring Federal Tax Provisions*, Publication JCX-3-13, January, 11 2013; Joint Committee on Taxation, *Estimates of Federal Expenditures for Fiscal Years 2012-2017*, February 1, 2013; Indiana State Police, *Superload Escorts: Superload Motor Carrier Escort Agreement*, September 24, 2013, Retrieved on December 30, 2013, accessed at <http://www.in.gov/isp/2563.htm>

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